

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION

)
) MDL No. 1456
)

THIS DOCUMENT RELATES TO
THE MASTER CONSOLIDATED CLASS
ACTION

) Civil Action No. 01-CV-12257 PBS
)
) Judge Patti B. Saris

**ANSWER OF DEFENDANT NOVARTIS
PHARMACEUTICALS CORPORATION**

Defendant Novartis Pharmaceuticals Corporation (“Novartis”), for its Answer to the Interveners’ Amended Master Consolidated Class Action Complaint (“AMCC”) in the captioned action, by its undersigned counsel, responds upon knowledge as to itself, and upon information and belief as to all other matters, as follows:

I. INTRODUCTION

1. Admits as to the allegations set forth in numbered paragraph 1 of the AMCC that plaintiffs purport to bring this case as a proposed class action but denies that there is any basis on which to permit them to do so.

2. Denies the allegations set forth in numbered paragraph 2 of the AMCC.

3. Denies the allegations set forth in numbered paragraph 3 of the AMCC and states that none of the Novartis products named in the AMCC is a Medicare Part B covered drug.

4. Denies the allegations set forth in numbered paragraph 4 of the AMCC and states that none of the Novartis products named in the AMCC is a Medicare Part B covered drug.

5. Denies the allegations set forth in numbered paragraph 5 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein, and states that none of the Novartis products named in the AMCC is a Medicare Part B covered drug.

6. Denies the allegations set forth in numbered paragraph 6 of the AMCC.

7. Denies the allegations set forth in numbered paragraph 7 of the AMCC.

8. Denies the allegations set forth in numbered paragraph 8 of the AMCC, except admits that Together Rx commenced a single-card discount drug program in 2002 that offers elderly poor Americans substantial discounts on prescription drugs.

9. Denies the allegations set forth in numbered paragraph 9 of the AMCC.

10. Denies the allegations set forth in numbered paragraph 10 of the AMCC.

11. Denies the allegations set forth in the fourth sentence of numbered paragraph 11 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11.

12. States that the allegations set forth in numbered paragraph 12 of the AMCC are moot pursuant to the Court's Memorandum and Order dated February 24, 2004 in which the Court dismissed all claims by plaintiffs in Count I of the AMCC.

13. States as to the allegations set forth in numbered paragraph 13 of the AMCC that plaintiffs do not assert any claims against Novartis in Count II of the AMCC.

14. Admits as to the allegations set forth in numbered paragraph 14 of the AMCC that plaintiffs purport to assert Count III on behalf of an AWP End Payor Class but denies that there is any basis on which to permit them to do so.

15. Admits as to the allegations set forth in numbered paragraph 15 of the AMCC that plaintiffs purport to assert Count IV on behalf of an AWP End Payor Class but denies that there is any basis on which to permit them to do so.

16. Admits as to the allegations set forth in numbered paragraph 16 of the AMCC that plaintiffs purport to assert Count V on behalf of a Nationwide End Payor Together Card Class but denies that there is any basis on which to permit them to do so.

17. Admits as to the allegations set forth in numbered paragraph 17 of the AMCC that plaintiffs purport to assert Count VI on behalf of a Nationwide End Payor Together Card Class but denies that there is any basis on which to permit them to do so.

18. Admits as to the allegations set forth in numbered paragraph 18 of the AMCC that plaintiffs purport to assert Count VII on behalf of an Indirect Purchaser States End Payor Together Card Class but denies that there is any basis on which to permit them to do so.

19. Admits as to the allegations set forth in numbered paragraph 19 of the AMCC that plaintiffs purport to assert Count VIII on behalf of a Nationwide End Payor Together Card Class but denies that there is any basis on which to permit them to do so.

20. States as to the allegations set forth in numbered paragraph 20 of the AMCC that plaintiffs do not assert any claims against Novartis in Count IX of the AMCC.

21. Admits as to the allegations set forth in numbered paragraph 21 of the AMCC that plaintiffs purport to assert Count X on behalf of a Nationwide End Payor Together Card Class but denies that there is any basis on which to permit them to do so.

II. JURISDICTION AND VENUE

22. States that paragraph 22 of the AMCC contains conclusions of law to which no response is required.

23. States that paragraph 23 of the AMCC contains conclusions of law to which no response is required.

24. Admits the allegations, in the first sentence of numbered paragraph 24 of the AMCC, that Novartis and other Defendants may be found within this judicial district, but denies

the remainder of the allegations stated in that sentence, states that the second sentence of paragraph 24 contains a conclusion of law to which no response is required, and denies the allegation contained in the third sentence of paragraph 24.

25. Admits the allegations of numbered paragraph 25 of the AMCC.

III. PARTIES

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 26 of the AMCC.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 27 of the AMCC.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 28 of the AMCC.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 29 of the AMCC.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 30 of the AMCC.

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 31 of the AMCC.

32. States that the allegations set forth in numbered paragraph 32 of the AMCC are moot as to Novartis because plaintiff Vermont Public Interest Research Group fails to allege that a member purchased a drug from Novartis and, pursuant to the Court's Memorandum and Order dated February 24, 2004, the Court dismissed all claims by a plaintiff association against a defendant where no member of that association is alleged to have purchased a drug from that defendant.

33. States that the allegations set forth in numbered paragraph 33 of the AMCC are moot as to Novartis because plaintiff Wisconsin Citizen Action fails to allege that a member purchased a drug from Novartis and, pursuant to the Court's Memorandum and Order dated February 24, 2004, the Court dismissed all claims by a plaintiff association against a defendant where no member of that association is alleged to have purchased a drug from that defendant.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 34 of the AMCC.

35. States that the allegations set forth in numbered paragraph 35 of the AMCC are moot as to Novartis because plaintiff Citizen Action of New York fails to allege that a member purchased a drug from Novartis and, pursuant to the Court's Memorandum and Order dated February 24, 2004, the Court dismissed all claims by a plaintiff association against a defendant where no member of that association is alleged to have purchased a drug from that defendant.

36. States that the allegations set forth in numbered paragraph 36 of the AMCC are moot as to Novartis because plaintiff Citizens for Consumer Justice fails to allege that a member purchased a drug from Novartis and, pursuant to the Court's Memorandum and Order dated February 24, 2004, the Court dismissed all claims by a plaintiff association against a defendant where no member of that association is alleged to have purchased a drug from that defendant.

36(a). Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 36(a) of the AMCC.

36(b). Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 36(b) of the AMCC.

36(c). Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first sentence of numbered paragraph 36(c) of the AMCC, and denies the allegations set forth in the second sentence of numbered paragraph 36(c) of the AMCC.

37. Denies the allegations set forth in numbered paragraph 37 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

38. Denies the allegations set forth in numbered paragraph 38 of the AMCC and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 39 of the AMCC.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 40 of the AMCC.

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 41 of the AMCC.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 42 of the AMCC.

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 43 of the AMCC.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 44 of the AMCC.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 45 of the AMCC.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 46 of the AMCC.

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 47 of the AMCC.

48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 48 of the AMCC.

49. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 49 of the AMCC.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 50 of the AMCC.

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 51 of the AMCC.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 52 of the AMCC.

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 53 of the AMCC.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 54 of the AMCC.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 55 of the AMCC.

56. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 56 of the AMCC.

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 57 of the AMCC.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 58 of the AMCC.

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 59 of the AMCC.

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 60 of the AMCC.

61. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 61 of the AMCC.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 62 of the AMCC.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 63 of the AMCC.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 64 of the AMCC.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 65 of the AMCC.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 66 of the AMCC.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 67 of the AMCC.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 68 of the AMCC.

69. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 69 of the AMCC.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 70 of the AMCC.

71. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 71 of the AMCC.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 72 of the AMCC.

73. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 73 of the AMCC.

74. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 74 of the AMCC.

75. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 75 of the AMCC.

76. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 76 of the AMCC.

77. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 77 of the AMCC.

78. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 78 of the AMCC.

79. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 79 of the AMCC.

80. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 80 of the AMCC.

81. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 81 of the AMCC.

82. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 82 of the AMCC.

83. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 83 of the AMCC.

84. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 84 of the AMCC.

85. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 85 of the AMCC.

86. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 86 of the AMCC.

87. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 87 of the AMCC.

88. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 88 of the AMCC.

89. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 89 of the AMCC.

90. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 90 of the AMCC.

91. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 91 of the AMCC.

92. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 92 of the AMCC.

93. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 93 of the AMCC.

94. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 94 of the AMCC.

95. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 95 of the AMCC.

96. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 96 of the AMCC.

97. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 97 of the AMCC.

98. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 98 of the AMCC.

99. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 99 of the AMCC.

100. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 100 of the AMCC.

101. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 101 of the AMCC.

102. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 102 of the AMCC.

103. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 103 of the AMCC.

104. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 104 of the AMCC.

105. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 105 of the AMCC.

106. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 106 of the AMCC.

107. Denies the allegations set forth in numbered paragraph 107 of the AMCC, except admits that Novartis has its principal place of business at One Health Plaza, East Hanover, New Jersey and that it is a U.S. affiliate of Novartis AG, which is incorporated in Switzerland and which reported a net income of \$4.2 billion on sales of \$19.1 billion in 2001.

108. Denies the allegations set forth in numbered paragraph 108 of the AMCC, except admits that, over the course of the Together Rx program, the drugs manufactured or distributed by Novartis and covered by the Together Card program have included Clozaril, CombiPatch, Comtan, Diovan, Diovan HCT, Elidel, Estraderm, Exelon, Famvir, Femara, Focalin, Lamisil, Lescol/Lescol XL, Lotensin, Lotensin HCT, Miacalcin Injection & Nasal Spray, Parlodel, Ritalin Hydrochloride, Ritalin LA, Starlix, Tegretol, Tegreto~~X~~XR, Trileptal, Vivelle/Vivelle Dot and Zelnorm.

109. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 109 of the AMCC.

110. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 110 of the AMCC.

111. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 111 of the AMCC.

112. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 112 of the AMCC.

113. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 113 of the AMCC.

114. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 114 of the AMCC.

115. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 115 of the AMCC.

116. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 116 of the AMCC.

117. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 117 of the AMCC.

118. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 118 of the AMCC.

119. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 119 of the AMCC.

120. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 120 of the AMCC.

121. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 121 of the AMCC.

122. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 122 of the AMCC.

123. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 123 of the AMCC.

124. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 124 of the AMCC.

125. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 125 of the AMCC.

126. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 126 of the AMCC.

127. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 127 of the AMCC.

128. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 128 of the AMCC.

129. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 129 of the AMCC.

130. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 130 of the AMCC.

131. Denies the allegations set forth in numbered paragraph 131 of the AMCC, but admits that Defendant Together Rx is a Delaware limited liability company and that its member companies are Abbott Laboratories; AstraZeneca Pharmaceuticals LP; Aventis Pharmaceuticals Inc.; Bristol-Myers Squibb Company; SmithKline Beecham Corporation d/b/a GlaxoSmithKline; Janssen Pharmaceutical Products, L.P. and McNeil-OPC, Inc. (both affiliates of Johnson & Johnson); and Novartis Pharmaceuticals Corporation.

IV. GENERAL ALLEGATIONS APPLICABLE TO ALL DEFENDANTS

132. States that numbered paragraph 132 of the AMCC contains no allegations which require a response.

133. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 133 of the AMCC.

134. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 134 of the AMCC, except admits that Congress has mandated that Medicare Part B reimbursements be based in part on AWP, and states that none of the Novartis products named in the AMCC is a Medicare Part B covered drug.

135. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 135 of the AMCC, except admits that several pharmaceutical industry compendia purport to publish AWP.

136. Denies the allegations set forth in numbered paragraph 136 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and further respectfully refers the Court to the forward to the 1999 edition of the *Red Book* and the referenced June 1996 Dow Jones news article for a full and complete reading of their content.

137. Denies the allegations set forth in numbered paragraph 137 of the AMCC.

138. Denies the allegations set forth in numbered paragraph 138 of the AMCC.

139. Denies the allegations set forth in numbered paragraph 139 of the AMCC.

140. Denies the allegations set forth in numbered paragraph 140 of the AMCC.

141. Denies the allegations set forth in numbered paragraph 141 of the AMCC and states that none of the Novartis products named in the AMCC is a Medicare Part B covered drug.

142. Admits the allegations set forth in numbered paragraph 142 of the AMCC.

143. Admits the allegations set forth in numbered paragraph 143 of the AMCC.

144. Admits the allegations set forth in numbered paragraph 144 of the AMCC and states that none of the Novartis products named in the AMCC is a Medicare Part B covered drug.

145. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 145 of the AMCC and further respectfully refers the Court to 42 C.F.R. § 405.517 for a full and complete reading of its provisions.

146. Admits that the quoted language set forth in numbered paragraph 146 of the AMCC appeared in a prior regulation and may have at some point in the past been a statement of the law but is not now, and further respectfully refers the Court to 42 C.F.R. § 405.517 for a full and complete reading of its provisions, and admits that the AWP published in the *Red Book* or other compendia has been used as a ceiling for Medicare reimbursement.

147. Admits the allegations set forth in numbered paragraph 147 of the AMCC and further respectfully refers the Court to 42 C.F.R. § 405.517 for a full and complete reading of its provisions.

148. As to the allegations set forth in numbered paragraph 148 of the AMCC, admits that the Medicare Program has publicly announced that it would use the AWP published in

independently produced compendia as the basis for reimbursement and further respectfully refers the Court to Program Memorandum AB-99-63 for a full and complete reading of its contents.

149. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 149 of the AMCC and further respectfully refers the Court to Program Memorandum AB-99-63 for a full and complete reading of its contents.

150. Admits the allegations set forth in numbered paragraph 150 of the AMCC and states that none of the Novartis products named in the AMCC is a Medicare Part B covered drug.

151. Admits the allegations set forth in numbered paragraph 151 of the AMCC and states that none of the Novartis products named in the AMCC is a Medicare Part B covered drug.

152. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 152 of the AMCC, except admits that there are no regulations describing how AWP's are to be calculated, nor any regulatory process for approving them and that it reports certain pricing information to independent publishing companies.

153. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 153 of the AMCC and further respectfully refers the Court to the Office of the Inspector General's April 2003 report "Compliance Program Guidance for Pharmaceutical Manufacturers" for a full and complete reading of its contents.

154. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 154 of the AMCC and further respectfully refers the Court to the Office of the Inspector General's April 2003 report "Compliance Program Guidance for Pharmaceutical Manufacturers" for a full and complete reading of its contents.

155. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 155 of the AMCC, except admits that it is aware of

published reports of investigations by various government entities relating to pharmaceutical pricing.

156. As to the truth of the allegations set forth in numbered paragraph 156 of the AMCC, denies the existence of, and its participation in, any “scheme” and further respectfully refers the Court to the September 29, 2000 letter from the House of Representatives Committee on Ways and Means, Subcommittee on Health to the President of the Pharmaceutical Research and Manufacturers of America for a full and complete reading of its contents.

157. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 157 of the AMCC and further respectfully refers the Court to the September 29, 2000 letter from the House of Representatives Committee on Ways and Means, Subcommittee on Health to the President of the Pharmaceutical Research and Manufacturers of America for a full and complete reading of its contents.

158. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 158 of the AMCC.

159. Denies the allegations set forth in numbered paragraph 159 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

160. Denies the allegations set forth in numbered paragraph 160 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein, except admits that, from time to time during the relevant period, Novartis provided price lists to third party publications which contained, *inter alia*, “AWPs” for certain of its drugs and, from at least January 1997 to the present, a statement that AWP is not intended to be a price charged by Novartis for any product to any customer.

161. Denies the allegations set forth in numbered paragraph 161 of the AMCC.

162. Denies the allegations set forth in numbered paragraph 162 of the AMCC.

163. Denies the allegations set forth in numbered paragraph 163 of the AMCC.

164. Denies the allegations set forth in numbered paragraph 164 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

165. Denies the allegations set forth in numbered paragraph 165 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

166. Denies the allegations set forth in numbered paragraph 166 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

167. Denies the allegations set forth in numbered paragraph 167 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

168. Denies the allegations set forth in numbered paragraph 168 of the AMCC.

169. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 169 of the AMCC.

170. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 170 of the AMCC.

171. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 171 of the AMCC.

172. Denies the allegations set forth in numbered paragraph 172 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

173. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 173 of the AMCC.

174. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 174 of the AMCC.

175. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 175 of the AMCC.

176. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 176 of the AMCC.

177. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 177 of the AMCC.

178. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 178 of the AMCC.

179. Denies the allegations set forth in numbered paragraph 179 of the AMCC.

180. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 180 of the AMCC.

181. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 181 of the AMCC.

182. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 182 of the AMCC.

183. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 183 of the AMCC.

184. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 184 of the AMCC.

185. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 185 of the AMCC.

186. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 186 of the AMCC.

187. Denies the allegations set forth in numbered paragraph 187 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

188. Denies the allegations set forth in numbered paragraph 188 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

189. Denies the allegations set forth in numbered paragraph 189 and subparagraphs 189(a)-(e) of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations therein, and further respectfully refers the Court to the Dey Complaint for a full and complete reading of its contents.

190. Denies the allegations set forth in numbered paragraph 190 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations therein, and further respectfully refers the Court to the Dey Complaint for a full and complete reading of its contents.

191. Denies the allegations set forth in numbered paragraph 191 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

192. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 192 of the AMCC, and further respectfully refers the Court to the CMS Health Care Industry Market Update (dated January 10, 2003) for a full and complete reading of its contents, except admits that Novartis considers its pricing policies and certain sales information to be proprietary and confidential information which it does not publicly disclose.

193. Denies the allegations set forth in numbered paragraph 193 of the AMCC, except admits that Novartis has confidentiality agreements with its customers to protect its proprietary information.

194. Denies the allegations set forth in numbered paragraph 194 of the AMCC as to Novartis and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein.

195. Denies the allegations set forth in numbered paragraph 195 of the AMCC.

196. Denies the allegations set forth in numbered paragraph 196 of the AMCC.

197. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 197 of the AMCC.

198. Denies the allegations set forth in numbered paragraph 198 of the AMCC.

199. Denies the allegations set forth in numbered paragraph 199 of the AMCC.

V. EXAMPLES OF SPECIFIC UNLAWFUL CONDUCT

200. Denies the allegations set forth in numbered paragraph 200 of the AMCC.

201. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 201 of the AMCC.

202. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 202 of the AMCC.

203. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 203 of the AMCC.

204. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 204 of the AMCC.

205. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 205 and subparagraphs 205(a) and (b) of the AMCC.

206. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 206 of the AMCC.

207. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 207 of the AMCC.

208. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 208 of the AMCC.

209. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 209 of the AMCC.

210. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 210 of the AMCC.

211. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 211 of the AMCC.

212. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 212 of the AMCC.

213. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 213 of the AMCC.

214. States that the allegations set forth in numbered paragraph 214 of the AMCC have been redacted by plaintiffs and, therefore, Novartis is unable to formulate a response to paragraph 214.

215. States that the allegations set forth in numbered paragraph 215 of the AMCC have been redacted by plaintiffs and, therefore, Novartis is unable to formulate a response to paragraph 215.

216. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 216 of the AMCC.

217. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 217 of the AMCC.

218. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 218 of the AMCC.

219. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 219 of the AMCC.

220. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 220 of the AMCC.

221. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 221 of the AMCC.

222. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 222 of the AMCC.

223. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 223 of the AMCC.

224. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 224 of the AMCC.

225. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 225 of the AMCC.

226. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 226 of the AMCC.

227. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 227 of the AMCC.

228. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 228 of the AMCC.

229. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 229 of the AMCC.

230. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 230 of the AMCC.

231. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 231 of the AMCC.

232. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 232 of the AMCC.

233. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 233 of the AMCC.

234. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 234 of the AMCC.

235. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 235 of the AMCC.

236. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 236 and subparagraphs 236(a)-(c) of the AMCC.

237. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 237 of the AMCC.

238. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 238 of the AMCC.

239. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 239 of the AMCC.

240. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 240 of the AMCC.

241. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 241 of the AMCC.

242. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 242 of the AMCC.

243. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 243 of the AMCC.

244. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 244 of the AMCC.

245. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 245 of the AMCC.

246. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 246 of the AMCC.

247. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 247 of the AMCC.

248. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 248 of the AMCC.

249. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 249 of the AMCC.

250. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 250 of the AMCC.

251. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 251 of the AMCC.

252. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 252 of the AMCC.

253. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 253 of the AMCC.

254. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 254 and subparagraphs 254 (a)-(b) of the AMCC.

255. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 255 of the AMCC.

256. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 256 of the AMCC.

257. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 257 of the AMCC.

258. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 258 of the AMCC.

259. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 259 of the AMCC.

260. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 260 of the AMCC.

261. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 261 of the AMCC.

262. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 262 of the AMCC.

263. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 263 of the AMCC.

264. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 264 of the AMCC.

265. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 265 of the AMCC.

266. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 266 of the AMCC.

267. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 267 of the AMCC.

268. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 268 of the AMCC.

269. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 269 of the AMCC.

270. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 270 of the AMCC.

271. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 271 of the AMCC.

272. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 272 of the AMCC.

273. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 273 of the AMCC.

274. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 274 of the AMCC.

275. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 275 of the AMCC.

276. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 276 of the AMCC.

277. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 277 of the AMCC.

278. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 278 of the AMCC.

279. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 279 of the AMCC.

280. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 280 of the AMCC.

281. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 281 of the AMCC.

282. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 282 of the AMCC.

283. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 283 of the AMCC.

284. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 284 of the AMCC.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second numbered paragraph 13 of the AMCC.

285. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 285 of the AMCC.

286. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in numbered paragraph 286 of the AMCC.